

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE BOARD OF ACCOUNTANCY

In the Matter of  
Nancy M. Bergeson, C.P.A.  
License No. 06741

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Barbara L. Neilson at 3:30 p.m. on October 5, 2000, at the Office of Administrative Hearings in Minneapolis, Minnesota. Bobby J. Champion, Assistant Attorney General, 525 Park Street, Suite 200, St. Paul, Minnesota 55103-2106, appeared on behalf of the Board of Accountancy ("the Board"). There was no appearance by or on behalf of the Respondent, Nancy M. Bergeson, C.P.A., 1129 East 82<sup>nd</sup> Street, Inver Grove Heights, Minnesota 55076. The record in this matter closed at the conclusion of the prehearing conference on October 5, 2000.

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Dennis J. Poppenhagen, Executive Secretary, Board of Accountancy, Suite 125, 85 East Seventh Place, St. Paul, Minnesota 55101, (telephone no. (612) 296-7937), to ascertain the procedure for filing exceptions or presenting argument.

**STATEMENT OF ISSUE**

The issues in this contested case proceeding are whether or not Respondent failed to submit practice monitoring reports to the Board by June 30, 1996, and June 30, 1999, in violation of Minn. R. 1100.9200; failed to respond to communications from the Board and failed to appear at a conference with the Board's Complaint Committee, in violation of Minn. R. 1100.0600; failed to renew her license, in violation of Minn. Stat. § 326.20; and violated a statute or rule the Board is empowered to enforce within the meaning of Minn. Stat. § 326.229, subd. 4(a)(1); and, if so, whether disciplinary action should be taken against the certified public accountant certificate and license of the Respondent on the grounds set out in Minn. Stat. § 326.229, subd. 4.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

1. The Board of Accountancy issued the Respondent, Nancy M. Bergeson, a certificate and license to practice public accounting on January 1, 1980.

2. The Notice of and Order for Prehearing Conference and Hearing in this matter was served upon the Respondent by first class mail on January 31, 2000, at 1129 East 82<sup>nd</sup> Street, Inver Grove Heights, MN 55076, her last known address on file with the Board.

3. The Notice of and Order for Prehearing Conference and Hearing mailed to the Respondent included the following notice after the sentence notifying Respondent of the time and location of the Prehearing Conference:

A hearing in this matter will be scheduled by the Administrative Law Judge following the prehearing conference, if necessary. You are urged to attend both the prehearing conference and hearing, if there is one. Failure to do so may prejudice your rights in this matter, may result in the allegations being taken as true, and may be the basis for disciplinary action against your certificate and license to practice public accounting.

4. The Respondent did not appear at the prehearing conference originally scheduled for February 29, 2000, but did contact the Board and enter into discussions about the submission of practice monitoring reports. Counsel for the Board notified the Administrative Law Judge by letter dated July 21, 2000, that the matter had not been resolved and requested that a hearing be held.

5. The Administrative Law Judge issued a First Prehearing Order on August 15, 2000, ordering that a prehearing conference be held on October 5, 2000, at 3:30 p.m. The First Prehearing Order was served upon the Respondent by first class mail on January 31, 2000, at 1129 East 82<sup>nd</sup> Street, Inver Grove Heights, MN 55076. The First Prehearing Order contained the following language in bold type:

**If Ms. Bergeson fails to appear at the prehearing conference without the advance consent of the Administrative Law Judge and fails to request a continuance of the prehearing conference, or fails to comply with any interlocutory order of the Administrative Law Judge after having been served with a copy thereof, she will be in default and the allegations or issues set forth in the Notice of and Order for Prehearing Conference issued on January 28, 2000 by the Board of Accountancy may be taken as true without further evidence and the Board may revoke, suspend, or take other action against Ms. Bergeson's CPA license without further proceedings.**

(Emphasis in original.)

6. The Respondent did not file any Notice of Appearance with the Administrative Law Judge or make any prehearing request for a continuance or any other relief. The Respondent did not appear at the prehearing conference scheduled for October 5, 2000, or have an appearance made on her behalf.

7. Because the Respondent failed to appear at the prehearing conference in this matter, she is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference and Hearing are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Board and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 214.10, and 326.229.

2. The Board has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law or rule.

3. The conduct described in the Notice of and Order for Prehearing Conference and Hearing constitutes a violation of Minn. Stat. §§ 326.20, 326.229, subd. 4(a)(1), and Minn. R. 1100.0600 and 1100.9200.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED: that disciplinary action be taken against the certified public accountant certificate and license of Nancy M. Bergeson.

Dated: October 10, 2000

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BARBARA L. NEILSON  
Administrative Law Judge

## **NOTICE**

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Tape Recorded (one tape).